

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6293

BILL NUMBER: HB 1031

NOTE PREPARED: Nov 10, 2004

BILL AMENDED:

SUBJECT: Biodiesel Tax Credits.

FIRST AUTHOR: Rep. Heim

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: The bill increases the limit on tax credits for biodiesel and blended biodiesel producers from \$1,000,000 to \$5,000,000. It provides that the tax credits are in addition to any federal tax credit a producer may receive. It also provides that taxpayers that sell blended biodiesel to end users in Indiana are entitled to tax credits not to exceed \$5,000,000. (Current law limits total credits to \$1,000,000 for blended biodiesel dealers that sell and dispense blended biodiesel from metered pumps.) The bill repeals two definitions that are not used in the amended biodiesel credit law.

Effective Date: January 1, 2005 (retroactive).

Explanation of State Expenditures: The Department of State Revenue (DOR) would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate the changes to the tax credit for blended biodiesel sales. These expenses presumably could be absorbed given the DOR's existing budget and resources.

Explanation of State Revenues: *Summary:* The bill increases the aggregate credit limit for each of three tax credits for the production and sale of biodiesel and blended biodiesel. Each credit limit is increased from \$1.0 M to \$5.0 M. As sufficient data is unavailable relating to production and sales of biodiesel and blended biodiesel in Indiana, the potential utilization of these credits in future years is indeterminable. It is important to note that the National Biodiesel Board (NBB) reports that there are currently 25 active biodiesel production plants operating in the U. S., with an annual production capacity of about 150 M gallons. The NBB also reports that 20 additional production plants have been proposed around the U. S. However, none of the active or proposed plants are in Indiana. The NBB also reports that a total of 24 biodiesel retailers currently operate

in Indiana.

In addition, the bill makes two other changes to the biodiesel tax credits. First, the bill eliminates the provision in current law requiring production credits to be reduced by any federal tax credit a taxpayer receives for biodiesel production. Recently, federal legislation was enacted providing federal excise tax and income tax credits for biodiesel production. Secondly, the bill changes applicability of the credit for sales of blended biodiesel by Indiana retailers. Under current law, the sales must be by a dealer operating a service station at which the blended biodiesel is dispensed through metered pumps. The bill eliminates these requirements and provides that the credit is applicable to blended biodiesel sales to end users in Indiana. This change would increase the number of vendors who could obtain the credit, but only up to the statutory credit limit of \$5.0 M.

Background: Current statute provides three credits against a taxpayer's Sales and Use Tax, Adjusted Gross Income Tax, Financial Institutions Tax, or Insurance Premiums Tax liability for the production and sale of biodiesel and blended biodiesel. Biodiesel is defined as a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agricultural plant oils or animal fats. Blended biodiesel is petroleum diesel blended with at least 2% biodiesel. Current statute prohibits the amount of credit claimed for each tax credit from exceeding \$1.0 M for all taxpayers and all taxable years. In addition, the production credits are reduced by an amount equal to any federal tax credits received for biodiesel production. The tax credits are as follows:

- (1) A credit equal to \$1.00 for each gallon of biodiesel manufactured in Indiana and used to produce blended biodiesel.
- (2) A credit equal to \$0.02 per gallon of blended biodiesel produced in Indiana and using biodiesel produced in Indiana.
- (3) A credit equal to \$0.01 per gallon of blended biodiesel sold by Indiana retailers.

Revenue from the corporate AGI tax, the Insurance Premiums Tax, and the Financial Institutions Tax is deposited in the state General Fund. The revenue from the individual AGI Tax is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%). Sales Tax revenue is deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

Information Sources: National Biodiesel Board. Congressional Joint Committee on Taxation.

Fiscal Analyst: Jim Landers, 317-232-9869.